IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF ILLINOIS

ANDREW D. COE,	
Plaintiff,)	
vs.)	CIVIL NO. 10-311-GPM
SLOAN, OLUKUNEE OBADINA, RICK A.) BURNS, and C/O HOMOY,	
Defendants.)	

MEMORANDUM AND ORDER

MURPHY, District Judge:

This matter comes before the Court upon two Orders issued by Magistrate Judge Donald G. Wilkerson. Judge Wilkerson has ordered Plaintiff to show cause for lack of service on Defendants Burns (Doc. 22) and Obadina (Doc. 23). This action was filed April 23, 2010. Judge Wilkerson entered his Orders requesting additional information for service on Defendants Burns and Obadina on January 21, 2011 and February 7, 2011, respectively. Plaintiff has not responded to either Order. The time limit for service pursuant to Federal Rule of Civil Procedure 4(m) has long passed. Judge Wilkerson's Orders gave notice to the Plaintiff that his action against Defendants Burns and Obadina was in jeopardy of dismissal. As service is delinquent, with no indication from Plaintiff that service (or additional information to help effect service) is forthcoming, Rule 4(m) provides that the action as against Defendants Burns and Obadina may be dismissed without prejudice. However, Rule 41(b) provides that when the Plaintiff fails to prosecute or to comply with a Court Order, such a failure operates as an adjudication on the merits. "A district court has the authority under Federal

Rule of Civil Procedure 41(b) to enter a sua sponte order of dismissal for lack of prosecution....Once

a party invokes the judicial system by filing a lawsuit, it must abide by the rules of the court; a party

can not decide for itself when it feels like pressing its action and when it feels like taking a break

because trial judges have a responsibility to litigants to keep their court calendars as current as

humanly possible." James v. McDonalds Corp., 417 F.3d 672, 681 (7th Cir. 2005) (internal citations

and quotations omitted). As he was advised by the Magistrate Judge, Plaintiff's failure to respond

to this Court will result in the dismissal of his case as against these two Defendants. Plaintiff's

claims against Defendant Rick A. Burns and Defendant Olukunee Obadina are thus dismissed with

prejudice pursuant to Fed. R. Civil P. 41(b).

IT IS SO ORDERED.

DATED: April 4, 2011

s/ G. Patrick Murphy G. PATRICK MURPHY

United States District Judge

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